

02-1783-CD
R. Kozdron vs Richard Hendricks al

02

Civil Other

Date		Judge
11/15/2002	✓ Filing: Civil Complaint in Ejectment Paid by: Gearhart, R. Denning (attorney for Kozdron, Rosemarie) Receipt number: 1851411 Dated: 11/15/2002 Amount: \$85.00 (Check) 3 Cert. to Atty.	No Judge
01/02/2003	✓ Answer To Complaint In Ejectment and New Matter. Verification s/Richard E. Hendricks s/Jeffrey d. Hendricks Certificate of Service 4 cc to Atty DuBois	No Judge
01/27/2003	✓ Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
01/21/2004	✓ Emergency Petition for Special Relief filed by Atty. DuBois. 3 CC to Atty.	No Judge
01/23/2004	✓ ORDER, AND NOW, this 22nd day of January, 2004, Hearing scheduled for 4th day of February, 2004, at 3:00 p.m., in Courtroom No. 1. by the Court, s/FJA, P.J. 3 cc to Atty	Fredric Joseph Ammerman
02/05/2004	✓ ORDER, NOW, this 4th day of February, 2004 Request for Continuance and Confirmation of Agreement is GRANTED. Hearing on Defendant's Emergency Petition for Special Relief shall be re-scheduled for the 19th day of February, 2004, in Courtroom No. 1, at 2:00 p.m. by the Court, s/FJA, P.J. 2 cc Atty Gearhart, DuBois	Fredric Joseph Ammerman
02/10/2004	✓ Motion For Continuance. filed by, s/Jeffrey S. DuBois, Esquire Certificate of Service 3 cc to Atty.	Fredric Joseph Ammerman
02/11/2004	✓ ORDER, AND NOW, this 11th day of Feb., 2004, re: Hearing on the Motion for Continuance scheduled for Feb. 19, 2004, at 2:00 p.m. CONTINUED until the 25th day of Feb. 2004 at 11:00 a.m. in Courtroom No. 1. by the Court, s/FJA, P.J. 3 cc to Atty	Fredric Joseph Ammerman
02/25/2004	✓ ORDER, NOW, this 25th day of February, 2004, re: Petition for Special Relief filed on behalf of the Defendants, each party to supply the Court with a Proposed Order within no more than six (6) days from this date. by the Court, s/FJA, P.J. 2 cc Atty Gearhart, DuBois	Fredric Joseph Ammerman
03/08/2004	✓ ORDER, AND NOW, this 5th day of March, 2004, re: Hearing on Defendant's Motion for Special Relief. by the Court, s/FJA, P.J. 1 cc Atty Gearhart, DuBois	Fredric Joseph Ammerman
03/12/2004	✓ Certificate of Readiness. filed by, s/Jeffrey S. DuBois, Esquire 1 cc Atty DuBois, copy to C/A	Fredric Joseph Ammerman
04/08/2004	✓ ORDER, NOW, this 1st day of April, 2004, re: Civil Pre-Trial Conference w/counsel for the parties and the Court scheduled for Friday, April 16, 2004 at 3:00 p.m. in President Judge Ammerman's Chambers. by the Court, s/FJA, P.J. 2 cc Atty DuBois, Gearhart	Fredric Joseph Ammerman
04/19/2004	✓ ORDER, NOW, this 16th day of April, 2004, re: Non-Jury Trial scheduled for one day, 9th day of July, 2004, beginning at 9:00- a.m., in Courtroom No. 1. by the Court, s/FJA, P.J. 2 cc Atty Gearhart, DuBois	Fredric Joseph Ammerman
06/09/2004	✓ Motion For Summary Judgment filed by Atty. Gearhart. 3 CC to Atty.	Fredric Joseph Ammerman
06/15/2004	✓ Order NOW, This 10th day of June, 2004, in consideration of Plff. Motion for Summary Judgment, argument is scheduled for the 24th day of June, 2004 at 10:30 AM in Room #1. S/FJA 3 CC to Atty. Gearhart.	Fredric Joseph Ammerman
06/16/2004	✓ Certificate of Service, Motion for Summary Judgment and Order upon Jeffrey S. DuBois, Esq., filed by s/R. Denning Gearhart, Esq. No CC	Fredric Joseph Ammerman
06/21/2004	✓ Motion for Continuance, filed by s/Jeffrey S. DuBois, Esq. Two CC Attorney DuBois	Fredric Joseph Ammerman

Civil Other

Date		Judge
06/23/2004	✓ Order, AND NOW, this 23rd day of June, 2004, in consideration of the Defendants Motion for Continuance, the Argument scheduled for June 24, 2004, at 10:30 a.m. be continued until the 29 day of June, 2004, at 2:30 p.m. in Courtroom No. 1. BY THE COURT: /s/Fredric J. Ammerman, P.J. Two CC Attorney DuBois	Fredric Joseph Ammerman
07/08/2004	✓ ORDER, filed. 2 cert. to Atty's Gearhart & DuBois NOW, this 7th day of July, 2004, Trial scheduled for July 9th is hereby Cancelled.	Fredric Joseph Ammerman
10/29/2004	✓ Petition to Enforce Settlement Agreement, filed by s/Jeffrey S. DuBois, Esq. Two CC Attorney DuBois	Fredric Joseph Ammerman
11/02/2004	✓ Order AND NOW, this 1s day of Nov. 2004, inconsideration of the Defendants Petition to Enforce Settlement Agreement, a Hearing is scheduled for the 23rd day of Nov. 2004 at 11 AM S/FJA 2 CC to Atty. DuBois	Fredric Joseph Ammerman
11/22/2004	✓ Answer To Petition To Enforce Settlement Agreement, on behalf of Plaintiff, filed by s/ R. Denning Gearhart, Esq. No CC	Fredric Joseph Ammerman
11/24/2004	✓ Order, NOW, this 23rd day of Nov., 2004, it is the ORDER of this Court that the said Petition to Enforce Settlement Agreement be and is hereby withdrawn. The Court Administrator is directed to place the case on a nonjury trial list for the 2005 Winter Term of Court. BY THE COURT: /s/ Fredric J. Ammerman, Judge. 2CC Attys: Gearhart, DuBois. 2CC Attys: Gearhart, DuBois	Fredric Joseph Ammerman
01/12/2005	✓ Certificate of Service, Pre Trial Statement, upon R. Denning Gearhart, Esquire on Jan. 12, 2005. Filed by s/ Jeffrey S. DuBois, Esquire. 3CC Atty DuBois	Fredric Joseph Ammerman
01/13/2005	✓ Certificate of Service, certified copy of Plaintiff's Pretrial Statement upon Defendants, Jan. 13, 2005. filed by s/ R. Denning Gearhart, Esquire. No CC	Fredric Joseph Ammerman
01/26/2005	✓ ORDER, filed. NOW, this 21st day of Jan., 2005, following Pre-Trial Conference among the Court and counsel it is the ORDER of this Court as follows: 1. Non-Jury Trial is hereby scheduled to commence at 9:00 a.m. on April 26th and 27th, 2005 in Courtroom No. 1 of the Clfd. Co. Courthouse. 2. By no later than April 10th 2005 counsel for both parties shall submit brief to the Court on issue of whether there has been a Nonjoinder of an Indispensable Party and as to how that issue allegedly affects the legal proceeding. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 2CC Atty Gearhart, 2cc Atty Dubois.	Fredric Joseph Ammerman
04/13/2005	✓ Certificate of Service, copy of plaintiff's Brief on Expected Trial Issue, upon Defendants addressed to Jeffrey S. DuBois Esquire, on April 13, 2005. Filed by s/ R. Denning Gearhart, Esquire. No CC	Fredric Joseph Ammerman

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

ROSEMARIE KOZDRON,
Plaintiff

VS.

NO. 02- 1783-CD

RICHARD E. HENDRICKS and
JEFFREY D. HENDRICKS,
Defendants

CASE NUMBER: 02- -CD

TYPE OF CASE: Civil

TYPE OF PLEADING: COMPLAINT IN EJECTMENT

FILED ON BEHALF OF: Plaintiff

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE
Supreme Court I.D. #26540
215 East Locust Street
Clearfield, PA 16830
(814) 765-1581

FILED

NOV 15 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

ROSEMARIE KOZDRON,	:			
Plaintiff	:			
VS.	:	NO.	02-	-CD
	:			
RICHARD E. HENDRICKS and	:			
JEFFREY D. HENDRICKS,	:			
Defendants	:			

COMPLAINT IN EJECTMENT

AND NOW, comes Plaintiff, by and through her attorney, R. Denning Gearhart, who aver as follows:

1. That Plaintiff, ROSEMARIE KOZDRON, is an adult individual, residing at R.R. #1, Box 108, Rockton, Clearfield County, Pennsylvania 15856. That Plaintiff is the owner of certain parcels of real estate located in Union Township, Clearfield County, Pennsylvania, more particularly described in Deeds filed of record in the Recorder's Office of Clearfield County, Pennsylvania. The first Deed is dated June 22, 1998 from Violet E. Kozdron, Executrix of the Iona C. Shaffer Estate recorded June 25, 1998 to Deeds & Records Book Volume 1944, Page 463. The second Deed is dated March 31, 1999 from James L. Kohler, Jr. and Janice E. Kohler, husband and wife recorded March 31, 1999 to Instrument No. 199904830.

2. That Defendant, RICHARD HENDRICKS, is an adult individual, residing at R.R. #1, Box 210, Rockton, Clearfield County, Pennsylvania 15856. That Defendant, JEFFREY D. HENDRICKS, is an adult individual, with an address of R.R. #1,

Box 210, Rockton, Clearfield County, Pennsylvania 15856. That Defendants are the owners of a certain parcel of real estate located in Union Township, Clearfield County, Pennsylvania, more particularly described in Deed filed of record in the Recorder's Office of Clearfield County, Pennsylvania from Mary Beutel dated October 24, 2002, and recorded November 5, 2002 to Instrument No. 200217974.

3. The strip of ground that is the subject of this suit runs through the properties of the Plaintiff, along her boundary with lands owned by Richard Brubaker.

4. That this strip of ground is now being claimed by the Defendants. Specifically, they are claiming the right to pass over said strip as a means to reach the property of theirs and to use said strip for purposes of removing logs from his property.

5. That not only would such use be a trespass and interfere with the Plaintiff's quiet enjoyment of her property, but the nature of its use by the Defendants would create an unnatural nuisance and threaten to do permanent damage to the Plaintiff's property.

6. That the strip of ground in question goes over property conveyed to the Plaintiff with the chain of title for that property being as follows:

- A. Parcel 1 - was obtained by Lawrence O. Shaffer and Iona C. Shaffer, his wife by Deed of Carl Brubaker, et ux dated the 24th day of August, 1953 as recorded in Deed Book 431, Page 130.
- B. Parcel 2 - was obtained by James L. Kohler, Jr. and Janice E. Kohler, husband and wife by Deed of Iona C. Shaffer, dated December 14, 1981 and recorded in the Recorder's Office of Clearfield County to Deed Book Volume 824, Page 421.

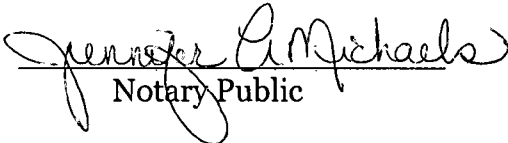
COMMONWEALTH OF PENNSYLVANIA :
: SS:
COUNTY OF CLEARFIELD :

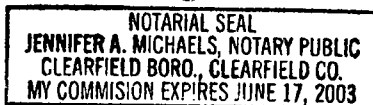
AFFIDAVIT

Before me, the undersigned officer, personally appeared, ROSEMARIE KOZDRON who being duly sworn according to law deposes and says that the facts set forth in the foregoing Complaint are true and correct to the best of her knowledge, information, and belief.


ROSEMARIE KOZDRON

Sworn to and subscribed
before me this 15th day
of November, 2002.


Notary Public



FILED

0/10:48-84
NOV 15 2002

William A. Shaw
Proprietary

300
Any
Any pd
85.00

R. DENNING GEARHART
ATTORNEY AT LAW
CLEARFIELD, PA. 16830

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA

ROSEMARIE KOZDRON,
Plaintiff

vs.

RICHARD E. HENDRICKS and
JEFFREY D. HENDRICKS,
Defendants

No. 02-1783-CD

Type of Pleading:

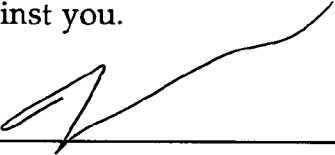
**ANSWER TO COMPLAINT
IN EJECTMENT AND
NEW MATTER**

Filed on Behalf of:
DEFENDANTS

Counsel of Record for this Party:

Jeffrey S. DuBois, Esquire
Supreme Court No. 62074
Hanak, Guido and Taladay
498 Jeffers Street
P. O. Box 487
DuBois, PA 15801
(814) 371-7768

You are hereby notified to plead
to the within pleading within
twenty (20) days hereof or a
default judgment may be entered
against you.



FILED

JAN 02 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

ROSEMARIE KOZDRON,
Plaintiff

vs.

RICHARD E. HENDRICKS and
JEFFREY D. HENDRICKS,
Defendants

:
:
:
:
:
:
:

No. 02-1783-C.D.

ANSWER TO COMPLAINT
IN EJECTMENT

AND NOW, comes the Defendants, RICHARD E. HENDRICKS and
JEFFREY D. HENDRICKS, by and through their attorneys, HANAK,
GUIDO AND TALADAY, and files this Answer to Complaint in
Ejectment and in support thereof avers the following:

1. Admitted.
2. Admitted.
3. Denied. It is denied that the strip of ground, which is the
subject matter of this suit, is located on the property of Plaintiff, but
on the contrary, the same is located on the property of the land of
Defendants. Alternatively, said subject property is not owned by either
of Defendants or Plaintiff, but Defendants have the right to use said
property for ingress and egress to their property as set forth herein.
4. Admitted in part. It is admitted that the subject strip of
ground is being claimed by Defendants, however, Defendants are
asserting that they are the rightful owners of said subject piece of
property, and only argue alternatively that in the event the property is

not owned by them by deed, they have the right to pass over said land as a means of ingress and egress to their property.

5. Denied. It is denied that any action to cross said subject property by Defendants would be trespass, as the Plaintiff cannot claim the same as she does not own said property, and Defendants have a valid right to travel over said property, as they are the owners of said property or have a right to use said property. By way of further answer, ingress and egress to Defendant's property would not create an unnatural nuisance or threaten to do permanent damage to Plaintiff's property.

6. Denied. It is specifically denied that the subject property in question goes over the property conveyed to Plaintiff. On the contrary, said subject property is owned by the Defendants through their acquisition of the aforementioned property by prior owners, or alternatively, Defendants have a right to use said subject property as set forth in Defendant's New Matter herein.

WHEREFORE, Defendants respectfully request this Honorable Court to dismiss Plaintiff's Complaint in its entirety and award judgment in favor of Defendants and against Plaintiff together with costs, fees, and other relief as this Court deems just and equitable.

NEW MATTER

7. Paragraphs 1 through 6 inclusive are incorporated herein by reference.

8. The lands currently owned by Plaintiff and Defendants were at one time one piece of a large tract of land owned by Joseph Brubaker.

9. Sometime thereafter, the land now owned by Plaintiff was parceled out by the Brubaker Estate and deeded to another party.

10. The particular piece of property owned by Plaintiff, which Plaintiff alleges ownership of the subject strip of land, clearly sets forth that her property only extends to the said "lane" and does not include the lane. A copy of said deed and description is attached hereto and made a part hereof as Exhibit "A".

11. The remaining property from the original Brubaker Estate was eventually deeded to the Defendants. Consequently, the Defendants are the owners of the strip of land in question.

12. Alternatively, Plaintiff has the right to use said land for the reasons set forth herein.

13. As set forth above, the property as owned by Plaintiff and Defendants at one time were one tract of land.

14. The subject piece of property was used to gain access to and from the land.

15. Consequently, an easement has been created in this case and which would inure to the Defendants by virtue of the ownership of their land.

16. Therefore, in the event the Defendants are not the rightful owners of the subject property, they would be granted an easement

and right across said property to gain access to and from their property.

WHEREFORE, the Defendants respectfully request this Honorable Court to award judgment in their favor and against Plaintiff, together with costs and interest, and any other relief this Honorable Court deems just and equitable.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. DuBois', written over a horizontal line.

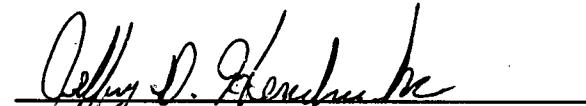
Jeffrey S. DuBois
Attorney for Defendants

VERIFICATION

We, RICHARD E. HENDRICKS and JEFFREY D. HENDRICKS, verify that the statements in the foregoing Answer to Complaint in Ejectment are true and correct to the best of our knowledge, information and belief.

This statement and verification is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn fabrication to authorities, which provides that if I make knowingly false averments, I may be subject to criminal penalties.



Richard E. Hendricks


Jeffrey D. Hendricks

CERTIFICATE OF SERVICE

I do hereby certify that on the 2nd day of Jan., 2003, I mailed a true and correct copy of the within Answer to Complaint in Ejectment and New Matter by first class mail, postage prepaid to:

R. Denning Gearhart, Esq.
215 E. Locust Street
Clearfield, PA 16830



Jeffrey S. DuBois

County Parcel No. _____

This Deed,MADE the 22nd day of June

in the year nineteen hundred and ninety eight (1998)

BETWEEN VIOLET E. KOZDRON, Executrix of the
Iona C. Shaffer Estate, of 5006 Pioneer Road,
Gibsonia, PA, Grantor

AND ROSEMARIE KOZDRON, a single person, of
R. R. 1, Box 108, North Street, Rockton, PA, Grantee

WITNESSETH, That in consideration of

Nineteen Thousand (\$19,000.00) ----- Dollars,
in hand paid, the receipt whereof is hereby acknowledged, the said grantor does hereby grant
and convey to the said grantee .

ALL that certain piece or parcel of land, situated in the Township of
Union, County of Clearfield and State of Pennsylvania, bounded and
described as follows, to wit:

BEGINNING at the intersection of a Township Road leading from the State
Road in the Village of Rockton, PA., Northerly to the Brubaker homestead,
and the lane leading from the said Township Road to the Brubaker
homestead; thence Westerly along the said Township Road, Fifty-six (56)
rods to Welty land; thence Northerly along Welty land Twenty-six (26)
rods to other lands of which this is a part; thence Easterly along the
said other lands, Fifty-six (56) rods to the land running from the
Township road to the Brubaker homestead; thence Southerly along the
said lane, Twenty-six (26) rods to the intersection of the Township
Road and the place of beginning. Containing 4.27 acres more or less,
with single family dwelling thereon.

BEING the same premises conveyed to Lawrence O. Shaffer and Iona C.
Shaffer, his wife, by Deed of Carl Brubaker, et ux., dated the 24th day
of August, 1953, as recorded in Deed Book 431, Page 130. The said
Lawrence O. Shaffer did thereafter become deceased on the 29th day of
November, 1977, whereby all of his right, title and interest
divulged by operation of law unto his surviving spouse, Iona C. Shaffer.
The said Iona C. Shaffer did herself become deceased on July 3, 1989,
and in accordance with her Last Will and Testament dated the 29th day
of September, 1979, which was duly admitted to probate with the
Register of Wills of Clearfield County, Pennsylvania, Violet E. Kozdron
was duly named and appointed Executrix of her Estate with full power
and authority to convey the subject matter premises hereby.

M.T.S.

EXHIBIT "A"

FILED

8/9:30 AM
JAN 02 2003

William A. Shaw
Prison Secretary

4cc
Atty. Dubois
C/AT

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 13320

KOZDRON, ROSEMARIE

02-1783-CD

VS.

HENDRICKS, RICHARD E. & JEFFREY D.

COMPLAINT IN EJECTMENT

SHERIFF RETURNS

NOW NOVEMBER 21, 2002 AT 9:00 AM EST SERVED THE WITHIN COMPLAINT
IN EJECTMENT ON RICHARD E. HENDRICKS, DEFENDANT AT RESIDENCE,
RR#1 BOX 210, ROCKTON, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING
TO RICHARD E. HENDRICKS A TRUE AND ATTESTED COPY OF THE ORIGINAL
COMPLAINT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.
SERVED BY: COUDRIET/RYEN

NOW NOVEMBER 21, 2002 AT 9:00 AM EST SERVED THE WITHIN COMPLAINT
IN EJECTMENT ON JEFFREY D. HENDRICKS, DEFENDANT AT RESIDENCE,
RR#1 BOX 210, ROCKTON, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING
TO RICHARD HENDRICKS, BROTHER A TRUE AND ATTESTED COPY OF THE
ORIGINAL COMPLAINT IN EJECTMENT AND MADE KNOWN TO HIM THE CONTENTS
THEREOF.
SERVED BY: COUDRIET/RYEN

Return Costs

Cost	Description
32.82	SHFF. HAWKINS PAID BY: ATTY.
20.00	SURCHARGE PAID BY; ATTY.

FILED
01/27/03
JAN 27 2003

William A. Shaw
Prothonotary

Sworn to Before Me This

27th Day Of Jan 2003
William A. Shaw

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

So Answers,

Chester A. Hawkins
Chester A. Hawkins
Sheriff

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,
Plaintiff

Vs.

RICHARD E. HENDRICKS and
JEFFREY D. HENDRICKS,
Defendants

No. 02-1783-CD

Type of Pleading:

**EMERGENCY PETITION FOR
SPECIAL RELIEF**

Filed on Behalf of:
DEFENDANTS

Counsel of Record for This Party:

Jeffrey S. DuBois, Esquire
Supreme Court No. 62074
190 West Park Avenue, Suite #5
DuBois, PA 15801
(814) 375-5598

FILED

JAN 21 2004

William A. Staw
Prothonotary

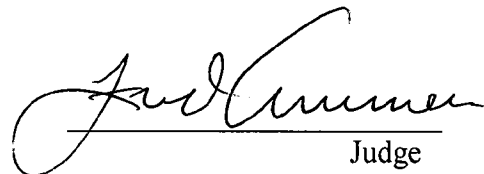
IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON, : No. 02-1783-CD
Plaintiff :
Vs. :
RICHARD E. HENDRICKS and :
JEFFREY D. HENDRICKS, :
Defendants :

ORDER

AND NOW, this 22 day of January, 2004, in consideration of the Emergency
Petition for Special Relief, a Hearing is scheduled for the 4 day of February,
2004, at 3:00 o'clock P.M. in Courtroom No. 1 of the Clearfield County
Courthouse, Clearfield, Pennsylvania.

BY THE COURT:


Judge

FILED

JAN 23 2004

William A. Shaw
Prothonotary

FILED

0 11:18 AM JAN 23 2004

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,	:	No. 02-1783-CD
Plaintiff	:	
	:	
Vs.	:	
	:	
RICHARD E. HENDRICKS and	:	
JEFFREY D. HENDRICKS,	:	
Defendants	:	

EMERGENCY PETITION FOR SPECIAL RELIEF

AND NOW, comes the Defendants, Richard E. Hendricks and Jeffrey D. Hendricks, by and through their attorney, Jeffrey S. DuBois, Esquire, who files this Emergency Petition for Special Relief and in support thereof avers the following:

1. This case involves a dispute over the right and ownership of a strip of land on property located in Union Township, Clearfield County, Pennsylvania.
2. Defendants are the owners of land consisting of approximately eighty (80) acres located in said county.
3. Defendants only access to gain said property would be to go across the disputed path. As set forth in Defendants Answer and New Matter, Defendants claim rightful title and ownership to said property.
4. As such, Defendants claim it is their right to travel across said lane for ingress and egress to their property.

5. At a minimum, because of the fact that it is Defendants only matter of ingress and egress to their property, Defendants would at least have a right of way across said property.

6. Without informing Defendants and with no authority, Plaintiff has placed a gate across the entrance to said lane preventing anyone access to said property. Plaintiff has no right nor authority to place a gate thereon.

7. Defendants do not have the ability to gain access to their land by other means and Defendants need such access for reasons including, but not limited to, to remove logs which have been cut down on the land, to gain access to perform septic tests, to conduct the general inspection of said property, to clear some of the property off, and to perform dozer work.

8. It is imperative that Defendants be allowed to gain access to their property immediately to have the above worked performed.

9. There will be no harm to Plaintiff to allow Defendants access to the property during the pendency of this action.

WHEREFORE, Defendants respectfully request this Honorable Court to grant its Emergency Petition and authorize access for ingress and egress to their property during the pendency of this action.

Respectfully submitted,

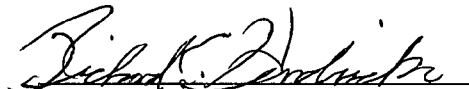



Jeffrey S. DuBois
Attorney for Defendants

VERIFICATION

We, Richard E. Hendricks and Jeffrey D. Hendricks, verify that the statements in the foregoing Pleading are true and correct to the best of our knowledge, information and belief.

This statement and verification is made subject to the penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities, which provides that if we make knowingly false averments, we may be subject to criminal penalties.


Richard E. Hendricks


Jeffrey D. Hendricks


IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,	:	No. 02-1783-CD
Plaintiff	:	
	:	
Vs.	:	
	:	
RICHARD E. HENDRICKS and	:	
JEFFREY D. HENDRICKS,	:	
Defendants	:	

CERTIFICATE OF SERVICE

I do hereby certify that on the 22nd day of January, 2004, I served a true and correct copy of the within Emergency Petition for Special Relief by first class mail, postage prepaid, on the following:

R. Denning Gearhart, Esquire
215 East Locust Street
Clearfield, PA 16830



Jeffrey S. DuBois

FILED

0 11:54 AM 3006 274

JAN 21 2004

William A. Shaw
Prothonotary

61

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,
Plaintiff

Vs.

RICHARD E. HENDRICKS and
JEFFREY D. HENDRICKS,
Defendants

No. 2002-1783-CD

Type of Pleading:

**MOTION FOR
CONTINUANCE**

Filed on Behalf of:
DEFENDANTS

Counsel of Record for This Party:

Jeffrey S. DuBois, Esquire
Supreme Court No. 62074
190 West Park Avenue, Suite #5
DuBois, PA 15801
(814) 375-5598

FILED

FEB 10 2004

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON, : No. 02-1783-CD
Plaintiff :
Vs. :
RICHARD E. HENDRICKS and :
JEFFREY D. HENDRICKS, :
Defendants :

ORDER

AND NOW, this 11th day of February, 2004, in consideration of the Motion for Continuance, the Hearing scheduled for February 19, 2004, at 2:00 o'clock p.m. be continued until the 25 day of February, 2004, at 11:00 o'clock A.M. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:



Judge

FILED

FEB 11 2004

William A. Shaw
Prothonotary

FILED

340 RA 322 & 224

FEB 11 2004

[Signature]

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,	:	No. 02-1783-CD
Plaintiff	:	
	:	
Vs.	:	
	:	
RICHARD E. HENDRICKS and	:	
JEFFREY D. HENDRICKS,	:	
Defendants	:	

MOTION FOR CONTINUANCE

AND NOW, comes the Defendants, Richard E. Hendricks and Jeffrey D. Hendricks, by and through their attorney, Jeffrey S. DuBois, Esquire, who files this Motion For Continuance and in support thereof avers the following:

1. There is a Hearing scheduled in this matter on February 19, 2004 at 2:00 p.m.
2. The undersigned will be out of town on vacation.
3. It is in the best interest of the Defendants to have the undersigned present at said Hearing.
4. The undersigned has contacted attorney for Plaintiff and he is agreeable to said continuance.

WHEREFORE, Defendants respectfully request this Honorable Court to grant its Motion for Continuance and reschedule said Hearing for another date and time.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'JD' or similar, written above a horizontal line.

Jeffrey S. DuBois
Attorney for Defendants


IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,	:	No. 02-1783-CD
Plaintiff	:	
	:	
Vs.	:	
	:	
RICHARD E. HENDRICKS and	:	
JEFFREY D. HENDRICKS,	:	
Defendants	:	

CERTIFICATE OF SERVICE

I do hereby certify that on the 10th day of February, 2004, I served a true and correct copy of the within Motion for Continuance by first class mail, postage prepaid, on the following:

R. Denning Gearhart, Esquire
215 East Locust Street
Clearfield, PA 16830



Jeffrey S. DuBois

FILED

0 1:50 PM Feb 10 2004
FEB 10 2004
W. A. Shaw

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

ROSEMARIE KOZDRON

:

VS.

: NO. 02-1783-CD

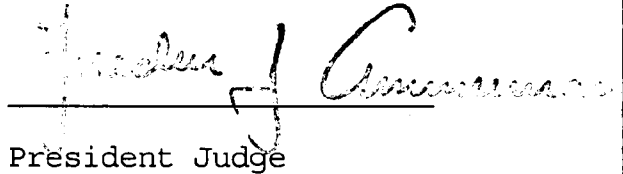
RICHARD E. HENDRICKS, al

:

O R D E R

NOW, this 25th day of February, 2004, following the taking of testimony relative the Petition for Special Relief filed on behalf of the Defendants, it is the ORDER of this Court that counsel for each party supply the Court with a proposed order within no more than six (6) days from this date.

BY THE COURT,



President Judge

FILED

FEB 25 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED

2/3/04
FEB 25 2004

acc Amy Gearhart

acc Amy Dubois

William A. Shaw
Prothonotary/Clerk of Courts

WAS

CA

.....

No. 02-1783-CD

MAR 08 2004

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•

William A. Shaw
Prothonotary

672 day of March

1) There exists a dispute over the ownership of a certain strip of land used, at the time, as access connecting the real estate now owned by the Defendants to Township Road. A survey done for the Plaintiff, shows a "Cartway" running along the eastern edge of the Plaintiff's property, between the Township Road and the Defendants' property. Defendants offered no survey or other evidence of the location of a right-of-way through, or adjacent to, Plaintiff's property.

2) The parties apparently agree that the strip of ground used by the Plaintiff
 ay, or access, to her house is the strip of ground now claimed by the
 and listed on the survey as a "private Cartway."

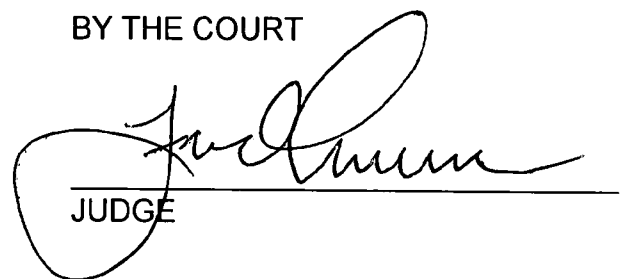
3) However, if this is the right-of-way claimed by the Defendants, it must also be a party of Richard and Patricia Brubaker, who are not a party to this action, and must name a party to the Defendants' Motion for Special Relief.

4) Accordingly, this Court has no jurisdiction to pronounce or order Defendants' right to use this lane.

5) Furthermore, Defendants, in order to justify emergency, special relief, must show that they would be irreparably harmed by the delay caused by a complete litigation of the Plaintiff's Complaint. But, Defendants' evidence was that they have enjoyed alternate access over this property throughout their ownership of it, and throughout the 15 months of this litigation. Indeed, Plaintiff gave credible testimony of her belief – and her basis for that belief – that overuse, or inappropriate use, of this cartway would destroy it and thus eliminate access for her and her elderly mother. She is the one at risk of irreparable harm if the Motion is granted.

6) Defendants' Motion for Special Relief is denied. Either party may list the case as ready for Non-jury Trial, but only after a survey of the area is conducted, showing the location of the Defendants' alleged right-of-way, and its relationship to the real estate of the Plaintiff and other neighbors or landowners.

BY THE COURT


JUDGE

FILED

0/0:02:00

*cc atty. General
cc atty. General*

MAR 08 2004

KA

William A. Shaw
Prothonotary

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL TRIAL LISTING

CERTIFICATE OF READINESS

TO THE PROTHONOTARY

2002 - 1783 - CD Non-Jury DATE PRESENTED March 11, 2004
CASE NUMBER TYPE TRIAL REQUESTED ESTIMATED TRIAL TIME
Date Complaint () Jury (x) Non-Jury
Filed: 11/15/02 () Arbitration one¹ days/hours

PLAINTIFF(S)

Rosemarie Kozdron

()

Check block if a Minor
is a Party to the Case

DEFENDANT(S)

Richard F. Hendricks &
Jeffrey D. Hendricks

()

ADDITIONAL DEFENDANT(S)

()

FILED

MAR 12 2004

William A. Shaw
Prothonotary/Clerk of Courts

JURY DEMAND FILED BY:

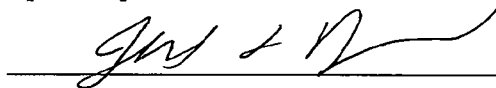
DATE JURY DEMAND FILED:

AMOUNT AT ISSUE CONSOLIDATION DATE CONSOLIDATION ORDERED

More than
& () yes () no

PLEASE PLACE THE ABOVE CAPTIONED CASE ON THE TRIAL LIST.

I certify that all discovery in the case has been completed; all necessary parties and witnesses are available; serious settlement negotiations have been conducted; the case is ready in all respects for trial, and a copy of this Certificate has been served upon all counsel of record and upon all parties of record who are not represented by counsel:



FOR THE PLAINTIFF

TELEPHONE NUMBER

Denning Gearhart, Esq.

765-1581

FOR THE DEFENDANT

TELEPHONE NUMBER

Jeffrey S. DuBois, Esq.

375-5598

FOR ADDITIONAL DEFENDANT

TELEPHONE NUMBER

FILED

1cc

01/12/15/2004

MAR 12 2004

William A. Shaw

Prothonotary/Clerk of Courts

Atty DuBois
copy to CIA

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,
Plaintiff

vs.

RICHARD E. HENDRICKS and
JEFFREY D. HENDRICKS,
Defendants

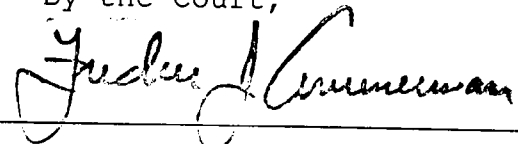
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NO. 2002-1783-C.D.

ORDER

NOW, this 1st day of April, 2004, following Civil Call, it is the ORDER of this Court that Civil Pre-Trial Conference with counsel for the parties as set forth above and the Court be and is hereby scheduled for Friday, April 16, 2004 at 3:00 p.m. in President Judge Ammerman's Chambers, Clearfield County Courthouse, Second Floor, Clearfield, Pennsylvania.

By the Court,



FREDRIC J. AMMERMAN
PRESIDENT JUDGE

FILED

APR 08 2004

William A. Shaw
Prothonotary

FILED

6 4:20 PM RECEIVED
2004 APR 08 2004

[Handwritten signature]

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,
Plaintiff

vs.

RICHARD E. HENDRICKS and
JEFFREY D. HENDRICKS,
Defendants

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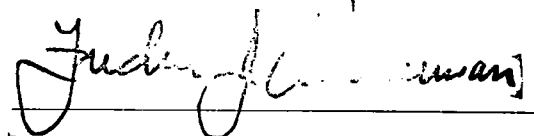
NO. 2002-1783-C.D.

O R D E R

NOW, this 16th day of April, 2004, following Pre-Trial Conference with counsel for the parties and the Court, it is the ORDER of this Court as follows:

1. Non-Jury Trial be scheduled for one day, on the 9th day of July, 2004, beginning at 9:00 a.m. in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania.

By the Court,



FREDRIC J. AMMERMAN
President Judge

FILED

APR 19 2004

William A Shaw
Prothonotary, Clerk of Courts

FILED 2 cc Amy Gresham
APR 19 2004 2 cc Amy Dubois

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,
Plaintiff

vs.

RICHARD E. HENDRICKS and
JEFFREY D. HENDRICKS,
Defendants

No. 02-1783-CD

CASE NUMBER: 02-1783 -CD
TYPE OF CASE: Civil
TYPE OF PLEADING: MOTION FOR SUMMARY JUDGEMENT
FILED ON BEHALF OF: Plaintiff

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE
Supreme Court I.D. #26540
207 E. Market Street
Clearfield, PA 16830
(814) 765-1581

FILED

JUN 09 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

ROSEMARIE KOZDROJ
Plaintiff

No. 05-1783-CD

vs.

JEFFREY D. HENDRICKS and
RICHARD E. HENDRICKS
Defendants

MOTION FOR SUMMARY JUDGMENT

AND NOW COMES the Plaintiff Rosemarie Kozdroj, by and through her attorney, R. Deming Gearhart, who moves for Summary Judgment in the above-captioned case and in support thereof avers as follows:

1. That the above case is an Ejectment action asking that the Court determine that the Defendants have no right to use her property as a means to reach their property.
2. That in their Now Matter, Defendants aver that they have a right-of-way from US RT. 322 to their property. The right-of-way they aver also crosses the right-of-way of a third party, namely Richard and Patricia Binkster.
3. This third party was not named a party to this action.
4. Defendants throughout the matter have consistently asserted that they

would present evidence of this right-of-way over the Brubaker property, to wit a deed or an agreement of easement from the Brubakers.

5. To date, that has not been done.

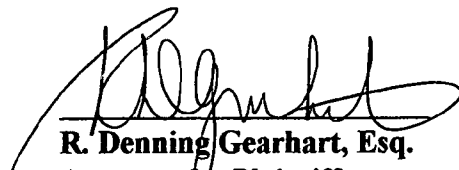
6. Without evidence that the Defendants do have the right-of-way over the property of the Brubakers, they cannot assert a right-of-way over the property of the Plaintiff.

7. Accordingly, there is no question of fact still before the Court.

8. The matter is scheduled for non-jury trial on July 9, 2004.

WHEREFORE, plaintiff prays the Honorable Court to enter Summary Judgment for her and against the Defendant.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. Denning Gearhart', is written over a horizontal line.

R. Denning Gearhart, Esq.
Attorney for Plaintiff
Supreme Court No. 26540
215 East Locust Street
Clearfield, PA 16830
(814)765-1581

CA

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD PENNSYLVANIA
CIVIL DIVISION No. 02-1783-CD

ROSEMARIE KOZDRON,
Plaintiff

vs.

RICHARD E. HENDRICKS and
JEFFREY D. HENDRICKS,
Defendants

MOTION FOR SUMMARY JUDGMENT

William A. Shaw
Prothonotary/Clerk of Courts

FILED 302
JUN 03 2004

Att. Gearhart

R. DENNING GEARHART
ATTORNEY AT LAW
CLEARFIELD, PA. 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,
Plaintiff

vs.

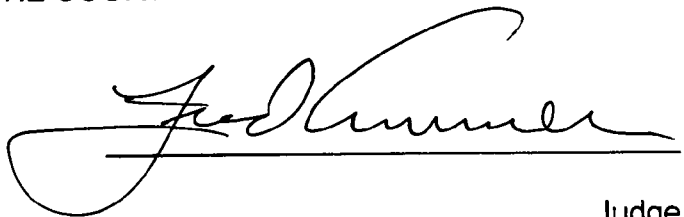
RICHARD E. HENDRICKS and
JEFFREY D. HENDRICKS,
Defendants

No. 02-1783-CD

ORDER

NOW, This 10 day of June, 2004, in consideration of Plaintiff's
MOTION FOR SUMMARY JUDGEMENT Argument is scheduled for the 24 day of
June, 2004 at 10:30 o'clock A.m., in courtroom number 1, of the
Clearfield County Courthouse, Clearfield, PA 16830.

BY THE COURT



Judge

FILED

JUN 15 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,
Plaintiffs,

v.

RICHARD E. HENDRICKS and
JEFFREY D. HENDRICKS,
Defendant.

:
:
:
:
:
:
:
:
:
:

NO. 02-1783-CD

CASE NUMBER: 02-1783-CD

TYPE OF PLEADING: **CERTIFICATE OF SERVICE**

FILED ON BEHALF OF: Plaintiff

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE
Supreme Court I.D. #26540
207 East Market Street
Clearfield, PA 16830
(814) 765-1581

FILED

JUN 16 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,
Plaintiffs,

v.


RICHARD E. HENDRICKS and
JEFFREY D. HENDRICKS,
Defendant.

NO. 02-1783-CD

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a certified copy of the MOTION FOR SUMMARY JUDGEMENT and ORDER filed in the above captioned matter on the Defendants, Richard E. Hendricks and Jeffrey D. Hendricks, through Defendants' attorney by depositing such documents in the United States Mail postage pre-paid and addressed as follows:

Jeffrey S. DuBois, Esquire
190 West Park Avenue, Suite 5
DuBois, PA 15801

By: 
R. Denning Gearhart, Esq.
Attorney for Plaintiff

Dated: June 16, 2004

FILED
033988-11 CC
JUN 16 2004

William A. Shaw
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,	:	No. 2002-1783-CD
Plaintiff	:	
	:	Type of Pleading:
Vs.	:	
	:	MOTION FOR
RICHARD E. HENDRICKS and	:	CONTINUANCE
JEFFREY D. HENDRICKS,	:	
Defendants	:	Filed on Behalf of:
	:	DEFENDANTS
	:	
	:	Counsel of Record for This Party:
	:	
	:	Jeffrey S. DuBois, Esquire
	:	Supreme Court No. 62074
	:	190 West Park Avenue, Suite #5
	:	DuBois, PA 15801
	:	(814) 375-5598

FILED

JUN 21 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,	:	No. 02-1783-CD
Plaintiff	:	
	:	
Vs.	:	
	:	
RICHARD E. HENDRICKS and	:	
JEFFREY D. HENDRICKS,	:	
Defendants	:	

ORDER

AND NOW, this 23rd day of June, 2004, in consideration of Defendants Motion for Continuance, the Argument scheduled for June 24, 2004, at 10:30 o'clock a.m. be continued until the 24 day of June, 2004, at 2:30 o'clock P.M. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:


Judge

FILED

JUN 23 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED 2cc
JUN 23 2004
41:00 PM
Ang. DuBois

WAS
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,	:	No. 02-1783-CD
Plaintiff	:	
	:	
Vs.	:	
	:	
RICHARD E. HENDRICKS and	:	
JEFFREY D. HENDRICKS,	:	
Defendants	:	

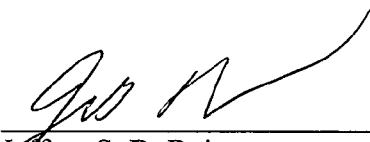
MOTION FOR CONTINUANCE

AND NOW, comes the Defendants, Richard E. Hendricks and Jeffrey D. Hendricks, by and through their attorney, Jeffrey S. DuBois, Esquire, who files this Motion For Continuance and in support thereof avers the following:

1. There is Argument scheduled for Plaintiff's Motion for Summary Judgment on June 24, 2004, at 10:30 a.m.
2. The undersigned will be out of state on vacation from June 18 through June 26.
3. It is in the best interest of the Defendants to have the undersigned present for said Argument.
4. The undersigned has contacted attorney for Plaintiff and he is agreeable to said continuance.

WHEREFORE, Defendants respectfully request this Honorable Court to grant its Motion for Continuance and reschedule said Hearing for another date and time.

Respectfully submitted,



Jeffrey S. DuBois
Attorney for Defendants

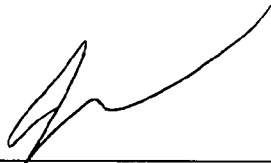
IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,	:	No. 02-1783-CD
Plaintiff	:	
	:	
Vs.	:	
	:	
RICHARD E. HENDRICKS and	:	
JEFFREY D. HENDRICKS,	:	
Defendants	:	

CERTIFICATE OF SERVICE

I do hereby certify that on the 17th day of June, 2004, I served a true and correct copy of the within Motion for Continuance by first class mail, postage prepaid, on the following:

R. Denning Gearhart, Esquire
215 East Locust Street
Clearfield, PA 16830



Jeffrey S. DuBois

FILED
m/1:22/24
JUN 21 2004
William A. Shaw
Prothonotary/Clerk of Courts
Aug 26 2015

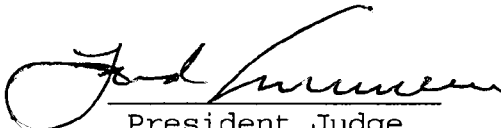
CA
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON, :
Plaintiff :
vs. : No. 2002-1783-CD
RICHARD E. HENDRICKS and :
JEFFREY D. HENDRICKS, :
Defendants :

ORDER

NOW, this 7th day of July, 2004, the Court having
been advised by both counsel for the Plaintiff and
counsel for the Defendants that the matter should be
settled soon and that a Trial would not be necessary, it
is the ORDER of this Court that the Trial scheduled for
July 9, 2004, at 9:00 O'clock A.M. be and is hereby
Cancelled.

BY THE COURT,


President Judge

FILED

JUL 08 2004

William A Shaw
Prothonotary/Clerk of Courts

FILED

01/09/2004

200c Amy Gearhart
200c Amy Dubois

Prothonotary Clerk of Courts

A

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,	:	No. 02-1783-CD
Plaintiff	:	
	:	Type of Pleading:
Vs.	:	
	:	PETITION TO ENFORCE
RICHARD E. HENDRICKS and	:	SETTLEMENT AGREEMENT
JEFFREY D. HENDRICKS,	:	
Defendants	:	Filed on Behalf of:
	:	DEFENDANTS
	:	
	:	Counsel of Record for This Party:
	:	
	:	Jeffrey S. DuBois, Esquire
	:	Supreme Court No. 62074
	:	190 West Park Avenue, Suite #5
	:	DuBois, PA 15801
	:	(814) 375-5598

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DuBois
f3601

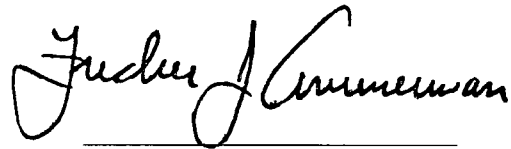
IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON, : No. 02-1783-CD
Plaintiff :
Vs. :
RICHARD E. HENDRICKS and :
JEFFREY D. HENDRICKS, :
Defendants :

ORDER

AND NOW, this 1st day of November, 2004, in consideration of the
Defendants Petition to Enforce Settlement Agreement, a Hearing is scheduled for the
23 day of November, 2004, at 11:00 o'clock A.M. in Courtroom No. 1
of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:



Judge

FILED

09:35 BA 200 Atty Dubois
NOV 02 2004

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,	:	No. 02-1783-CD
Plaintiff	:	
	:	
Vs.	:	
	:	
RICHARD E. HENDRICKS and	:	
JEFFREY D. HENDRICKS,	:	
Defendants	:	

PETITION TO ENFORCE SETTLEMENT AGREEMENT

AND NOW, comes the Defendants, Richard E. Hendricks and Jeffrey D. Hendricks, by and through their attorney, Jeffrey S. DuBois, Esquire, who files this Petition to Enforce Settlement Agreement and in support thereof avers the following:

1. The subject matter dispute in this case involves a lane which serves as a border between Plaintiff's and Defendants' properties.
2. The parties disputed as to the ownership of said lane.
3. There was a non-jury Trial scheduled before this Honorable Court, specifically, the Honorable Fredric J. Ammerman, and which was scheduled for July 9, 2004.
4. Prior to said Trial date, however, the parties reached an agreement in settlement of this matter.
5. Specifically, the undersigned, as well as counsel for Plaintiff, R. Denning Gearhart, Esquire, agreed to the sale of a portion of the property owned by Defendants to Plaintiff.

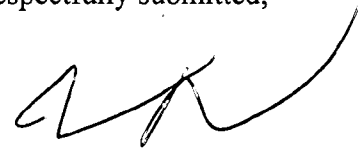
6. In particular, Defendants would sell a portion of land, approximately twenty (20) to twenty-five (25) acres, said area being part of the property which borders Plaintiff's property. The sales price for said property was Forty Thousand and 00/100 (\$40,000.00) Dollars. A copy of said agreement between the parties is attached hereto and made a part hereof as Exhibit "A".

7. Despite repeated requests by Defendants and Defendants' counsel, Plaintiff has failed to abide by the terms of the agreement, and will not comply with her terms of the agreement.

8. The settlement and agreement entered into by the parties was done voluntarily, and all parties are bound by the same.

WHEREFORE, Defendants respectfully request this Honorable Court to grant their Petition and enforce the agreement entered into by the parties, and order the same against the Plaintiff together with costs and attorney fees for bringing this action.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jeffrey S. DuBois', written over a horizontal line.

Jeffrey S. DuBois
Attorney for Defendants

R. Denning Gearhart

Attorney & Counselor at Law

207 E. Market Street
Clearfield, PA 16830

814-765-1581

(fax) 814-765-8142
<http://www.dgearhartpalaw.com>

July 2, 2004

Hon. Fredric J. Ammerman
Judge's Chambers
Court House
Clearfield, PA 16830

Re: Rosemarie Kozdron vs. Richard E. Hendricks & Jeffrey D. Hendricks
No. 02-1783-CD

Dear Judge Ammerman:

This confirms our discussion Friday, July 2, 2004, at 1:05 P.M. The above is scheduled for Non-Jury Trial on July 9, 2004, at 9:00 o'clock A.M. It is an Ejectment Action which involves an alleged right-of-way over my client's property to property owned by clients of Jeffrey DuBois, Esq.

The parties appear to be near a settlement which would involve the purchase of some of the property by my client, such that the right-of-way would not be an issue.

In order to effectuate this settlement, additional survey work needs to be done. Attorney DuBois and I both agree that it will not be done in a week. We also agree that the matter should be settled when the survey is complete. We also agree that we would rather not have the Trial on Friday, July 9, 2004, since it appears it will not be necessary.

Accordingly, we both agree to ask the Court to continue the case such that it would be rescheduled only in the unlikely event that one or both of the parties ask for it to be rescheduled.

I enclose a proposed Order continuing the matter indefinitely with it to be rescheduled only upon the request of either party placing it back on the Trial List. By copy of this letter, I am asking Attorney DuBois to contact the Court to indicate his acquiescence.

Sincerely,

R. Denning Gearhart

RDG:kar

Enclosure

cc: Jeffrey S. DuBois, Esq. ✓
Rosemarie Kozdron

Rec'd 7/14/04
Dr



JEFFREY S. DuBOIS

Attorney at Law

Phone: 814-375-5598

Fax: 814-375-8710

190 West Park Avenue • Suite #5 • DuBois, PA 15801

E-Mail: jsdlaw@verizon.com

September 21, 2004

R. Denning Gearhart, Esquire
207 E. Market Street
Clearfield, PA 16830

RE: Kozdron vs. Hendricks

Dear Denning,

This is in response to your letter to me dated September 10, 2004. I am extremely disappointed, as are my clients, that your client no longer wishes to abide by the terms we had agreed upon and which were the cause for the continuation of the Trial that was scheduled in July.

The agreement that we had reached was clear, and this was further supported by the fact that you were the one who drafted the letter to Judge Ammerman informing him that we had reached a settlement and he may continue the Hearing. As a result of your client's bad faith and not entering into the settlement as agreed, I have petitioned the Court to place the case back on for Trial.

Finally, I do not understand your reference to a survey by Hess & Fisher Engineering, when you have already submitted a survey to me, as well as the Court.

Thank you for your attention in this matter.

Sincerely,

Jeffrey S. DuBois

JSD:tlm

Cc: Rick and Jeff Hendricks



JEFFREY S. DuBOIS

Attorney at Law

Phone: 814-375-5598

Fax: 814-375-8710

190 West Park Avenue • Suite #5 • DuBois, PA 15801

E-Mail: jsdlaw@verizon.com

September 21, 2004

Marcy Kelley
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

RE: Kozdron vs. Hendricks

Dear Marcy,

As you may recall, the above case was scheduled for a one day non jury Trial in front of Judge Ammerman, and specifically was to be held on July 9, 2004.

Approximately one week or two before that, Attorney Gearhart and I had come to a settlement on the matter, and pursuant to a letter by Attorney Gearhart, the Trial was continued in light of the settlement reached by the parties.

Unfortunately, Attorney Gearhart's client no longer wishes to abide by this agreement.

Therefore, it will be necessary to have this Hearing before Judge Ammerman. Consequently, can you please schedule a one (1) day Hearing in front of Judge Ammerman for this matter as soon as possible.

Thank you for your attention in this matter.

Sincerely,

Jeffrey S. DuBois

JSD:tlm

Cc: R. Denning Gearhart, Esquire
Jeff and Rick Hendricks


IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,	:	No. 02-1783-CD
Plaintiff	:	
	:	
Vs.	:	
	:	
RICHARD E. HENDRICKS and	:	
JEFFREY D. HENDRICKS,	:	
Defendants	:	

CERTIFICATE OF SERVICE

I do hereby certify that on the 29th day of October, 2004, I served a true and correct copy of the within Petition to Enforce Settlement Agreement by first class mail, postage prepaid, on the following:

R. Denning Gearhart, Esquire
215 East Locust Street
Clearfield, PA 16830



Jeffrey S. DuBois

FILED

OCT 29 2004

William A. Shaw
Prothonotary/Clerk of Courts

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,
Plaintiffs,

v.

RICHARD E. HENDRICKS and
JEFFREY D. HENDRICKS,
Defendant.

NO. 02-1783-CD

FILED No CC
9/3/50/61
NOV 22 2004

William A. Shaw
Prothonotary/Clerk of Courts

ANSWER TO PETITION TO ENFORCE SETTLEMENT AGREEMENT

NOW COMES the Plaintiff Rosemarie Kozdron, by and through her attorney, R. Denning Gearhart, who answers the Petition to Enforce Settlement Agreement as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Denied for reasons set forth below.
5. Denied for reasons set forth below.

6. Denied. Plaintiff had agreed to purchase the property in its entirety for \$50,000.00 – or \$17,500.00 more than the Defendants had paid for the property. Her willingness to pay this premium amount – far over and above the value of the property – was based on her desire for the Defendants not to own any property within her vicinity, not to have any excuse to harass her. However Defendants countered with a proposal to sell only a portion of the property for \$40,000.00. More specifically, Defendants, through their counsel, had stated that they wished to keep “the strippings.” There was no agreement as to the exact quantity of acreage. It was agreed that in order to do this there would need

to be a survey and an approved subdivision.

7. Denied for reasons set forth above.
8. Denied for reasons set forth above.

WHEREFORE Plaintiff requests the Honorable Court to deny the Petition to Enforce Settlement Agreement and to instead schedule the same for a trial.

NEW MATTER

9. Paragraphs 1 through 8 and the answers thereto are hereby incorporated.
10. Under the applicable Statute of Frauds, any such transaction involving the conveyance of real estate must be specific in its terms. The alleged agreement fails to meet that requirement.

Respectfully submitted,

By: 

R. Denning Gearhart, Esq.
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,
Plaintiffs,

v.

RICHARD E. HENDRICKS and
JEFFREY D. HENDRICKS,
Defendant.

NO. 02-1783-CD

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a certified copy of the **ANSWER TO PETITION TO ENFORCE SETTLEMENT AGREEMENT** filed in the above captioned matter on the Defendants, Richard E. Hendricks and Jeffrey D. Hendricks, through Defendants' attorney by depositing such documents in the United States Mail postage pre-paid and addressed as follows:

Jeffrey S. DuBois, Esquire
190 West Park Avenue, Suite 5
DuBois, PA 15801

By: 
R. Denning Gearhart, Esq.
Attorney for Plaintiff

Dated: November 22, 2004

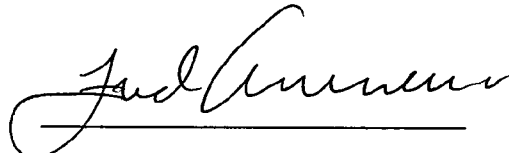
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON :
VS. : NO. 02-1783-CD
RICHARD E. HENDRICKS, et al. :

O R D E R

NOW, this 23rd day of November, 2004, this being the date set for hearing on the Defendant's Petition to Enforce Settlement Agreement; counsel for the Defendant, Jeffrey S. DuBois, Esquire, having requesting permission to withdraw the said petition and for the matter to be replaced on the nonjury trial list; R. Denning Gearhart, Esquire, counsel for Plaintiff, being in agreement with the same, it is the ORDER of this Court that the said Petition to Enforce Settlement Agreement be and is hereby withdrawn. The Court Administrator is directed to place the case on a nonjury trial list for the 2005 Winter Term of Court.

BY THE COURT:



President Judge

204
FILED
12:00 PM
NOV 24 2004
Atty: Gearhart
DuBois

William A. Shaw
Prothonotary/Clerk of Courts

FILED

NOV 24 2004

William A. Shaw
Prothonotary/Clerk of Courts

(A)

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,
Plaintiff

Vs.

RICHARD E. HENDRICKS and
JEFFREY D. HENDRICKS,
Defendants

No. 2002-1783-CD

Type of Pleading:

PRE-TRIAL STATEMENT

Filed on Behalf of:
DEFENDANTS

Counsel of Record for This Party:

Jeffrey S. DuBois, Esquire
Supreme Court No. 62074
190 West Park Avenue, Suite #5
DuBois, PA 15801

RECEIVED

APR 08 2004

COURT ADMINISTRATOR'S
OFFICE

Now jury
1 day -
7/9/04

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,	:	No. 2002-1783-CD
Plaintiff	:	
	:	
Vs.	:	
	:	
RICHARD E. HENDRICKS and	:	
JEFFREY D. HENDRICKS,	:	
Defendants	:	

PRE-TRIAL STATEMENT

I. BRIEF STATEMENT OF THE CASE

This case involves a dispute over a tract of land, specifically, a lane, which is located in Union Township, Clearfield County.

Plaintiff and Defendants are owners of land which either border or include said lane. Defendants contend that they are the owners of said lane, as the land owned by Defendant is approximately sixty (60) acres, with said land at one time being a much larger tract and all other smaller tracts around said area were divided out from this one larger tract.

It is Defendants contention that they are the owners of said lane. Alternatively, because of the fact that their land is located, at the very least, right next to said lane, and said lane extends to a State road, Defendants contend that at the very least, they have the right to use said lane to gain access to their property.

II. LIST OF WITNESSES

1. Richard E. Hendricks – Defendant
2. Jeffrey D. Hendricks – Defendant
3. Mary B. Beutel - Liability
935 Edgewater Circle
Kent, OH 44240
4. Michael Robin Dressler - Liability
270 North Street
Rockton, PA 15856
5. Donna Jean Bish - Liability
454 Cemetery Road
Rockton, PA 15856
6. Marilyn Sayers - Liability
310 East Scribner Avenue
DuBois, PA 15801
7. Any witnesses called by Plaintiff.

Defendant reserves the right to list additional witnesses with proper notice to counsel for Plaintiff and the Court.

III. EXHIBITS

1. Deeds of the subject property.
2. Pictures of the subject property and surrounding area.
3. Maps of the subject property.
4. Survey.

IV. EXPERT WITNESSES

1. Curry and Associates – surveyors
207 South Third Street
Clearfield, PA 16830

V. **EXPERT REPORTS**

Survey of subject area by Curry and Associates.

VI. **SPECIAL DAMAGES**

Not applicable.

VII. **UNUSUAL QUESTIONS OF LAW**

Not applicable.

VIII. **STIPULATIONS**

Counsel for Defendants will be in contact with counsel for Plaintiff, and the parties should be able to stipulate as to some, if not all, of the following:

- A. Deeds
- B. Pictures
- C. Maps
- D. Surveys

IX. **ESTIMATED TIME FOR TRIAL**

One (1) day.

Respectfully submitted,



Jeffrey S. DuBois, Esquire
Attorney for Defendants

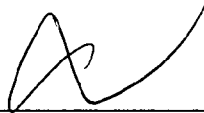
IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,	:	No. 2002-1783-CD
Plaintiff	:	
	:	
Vs.	:	
	:	
RICHARD E. HENDRICKS and	:	
JEFFREY D. HENDRICKS,	:	
Defendants	:	

CERTIFICATE OF SERVICE

I do hereby certify that on the 8th day of April, 2004, I served a true and correct copy of the within Pre Trial Statement by first class mail, postage prepaid, on the following:

R. Denning Gearhart, Esquire
215 E. Locust Street
Clearfield, PA 16830



Jeffrey S. DuBois

R. Denning Gearhart

Attorney & Counselor at Law

215 E. Locust Street
Clearfield, PA 16830

814-765-1581

(fax) 814-765-6745
<http://www.dgearhartpalaw.com>

April 12, 2004

Hon. Fredric J. Ammerman
Judge's Chambers
Court House
Clearfield, PA 16830

Re: Kozdron vs. Hendricks - #02-1783-CD

Dear Judge Ammerman:

Enclosed please find the Plaintiff's Pretrial Statement in the above captioned matter.

Sincerely,


R. Denning Gearhart

RDG:kar
Enclosure
cc: Jeffrey S. DuBois, Esq.

R. Denning Gearhart

Attorney & Counselor at Law

215 E. Locust Street
Clearfield, PA 16830

814-765-1581

(fax) 814-765-6745
<http://www.dgearhartpalaw.com>

April 12, 2004

Jeffrey S. DuBois, Esq.
Hanak, Guido and Taladay, esqs.
498 Jeffers Street
P. O. Box 487
DuBois, PA 15801

Re: Kozdron vs. Hendricks

Dear Jeff:

Enclosed by fax is a copy of Plaintiff's PreTrial Statement filed this date in the above matter.

Sincerely,

R. Denning Gearhart

RDG:kar
Enclosure

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)**

ROSEMARIE KOZDRON,	:	
Plaintiff	:	
	:	
vs.	:	No. 02-1783-CD
	:	
RICHARD E. HENDRICKS and	:	
JEFFREY D. HENDRICKS,	:	
Defendants	:	

PLAINTIFF'S PRETRIAL STATEMENT

Facts and Procedural History

Plaintiff brings this Ejectment Action asserting her sole ownership and right to the use a certain path crossing through part of her property. Plaintiff is the owner of a house and parcel in Union Township, Clearfield County. She bought the property from her parents. On October 24, 2002, Defendants purchased from Mary Beutel a parcel of ground above Plaintiff's property. After first demanding that Plaintiff sign a right-of-way agreement (which she refused to do) Defendants asserted a right to use a right-of-way across her property. In order to establish that no such right existed, Plaintiff filed the action sub Juris. In their responsive

pleadings, Defendants claim a right of way across Plaintiff's property. This claim is based on some vague language in the Deed as well as based on an argument of necessity.

On February 25, 2004, your Honorable Court held a hearing based on Defendants' Motion for Special Relief. That Motion claimed the disputed right of way was the only access to their property, and claimed that they are being irreparably harmed by the denial of this access. By Order dated March 5, 2004, your Honorable Court denied that Motion.

At the prior hearing, a survey map was presented by the Plaintiff. That survey showed a "cart way" up to Plaintiff's home. Defendants claim that this cart way was the right-of-way they were demanding. However, this cart way also crossed the property of a third party, Richard and Patricia Brubaker who are not parties to this action.

Damages

Although there are no damages now, the damage to such a fragile path would render the Plaintiff's property inaccessible by normal vehicular traffic. This would not only interfere with her right to the quiet enjoyment of her property but would make it impossible for her to care for her elderly and infirm mother.

Plaintiff's Legal Theory For Recovery

Defendants have no right away across Plaintiff's property. To the extent that defendant's assertion is based on necessity, there is ample evidence of alternatives. To the extent to that the assertion is based on the language found in various deeds, it is noted that the "Brubaker Homestead" no longer exists. It has been destroyed in earlier strip mining. Furthermore, this right of way to the "Brubaker Homestead" crosses not only through plaintiff property, but through other Brubaker property which was conveyed after the destruction of the Homestead and made no mention of a right away to that Homestead.

Furthermore, the right-of-way asserted by the defendants crosses over the property of a third party who is not a party to this action.

Defendant's Legal Theory for Defense and Counterclaim

Unknown.

Stipulations

None

Extraordinary Legal and Evidentiary Issues

1. Can the Court award a right-of-way over the property of a third party who is not named in the court action?
2. Can a right-of-way referring to the "old Brubaker homestead" be an unlimited right-of-way allowing for greater traffic than would be expected to a "homestead"?
3. If the old Brubaker homestead no longer exists, does the right-of-way exist?

Special Points for Charge

Names and Addresses of Witness; Purpose of Their Testimony

1) Rosemarie Kozdron
North Street
Rockton, PA

2) Richard Brubaker
North Street
Rockton, PA

3) Patricia Brubaker
North Street
Rocton, PA

4) Mary Joann Shaffer Daly
North Street
Rocton, PA

5) Joseph Kozdron
North Street
Rockton, PA

6) Other witnesses that may be
Relevant upon notification
Of Defendant's witnesses

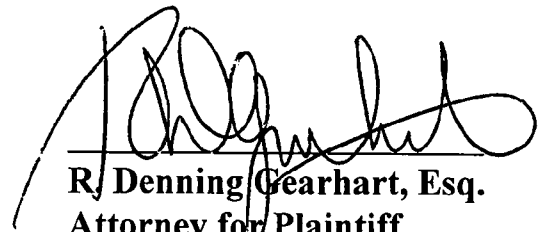
Exhibits

Various maps and Deeds.

Estimated Time For Trial

One (1) day.

Respectfully submitted,



R. Denning Gearhart, Esq.
Attorney for Plaintiff
Supreme Court No. 26540
215 East Locust Street
Clearfield, PA 16830
(814)765-1581

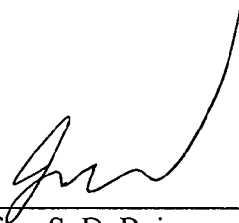
IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON, : No. 2002-1783-CD
Plaintiff :
Vs. :
RICHARD E. HENDRICKS and :
JEFFREY D. HENDRICKS, :
Defendants :

CERTIFICATE OF SERVICE

I do hereby certify that on the 12th day of January, 2005, I served a true and correct copy of the within Pre Trial Statement by first class mail, postage prepaid, on the following:

R. Denning Gearhart, Esquire
215 E. Locust Street
Clearfield, PA 16830



Jeffrey S. DuBois

FILED 3cc
wf 01/09:4261
JAN 12 2005
William A. Shaw
Prothonotary/Clerk of Courts
Jeff DuBois

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,
Plaintiff,

v.

RICHARD E. HENDRICKS and
JEFFREY D. HENDRICKS,
Defendants.

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No. 02-1783-CD

CASE NUMBER: 02-1783-CD

TYPE OF PLEADING: **CERTIFICATE OF SERVICE**

FILED ON BEHALF OF: Plaintiff

COUNSEL FOR RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE
Supreme Court ID#: 26540
207 East Market Street
Clearfield, PA 16830
814-765-1581

FILED No
OK 01/09/05 CC
JAN 13 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,
Plaintiff,

v.

RICHARD E. HENDRICKS and
JEFFREY D. HENDRICKS,
Defendants.


No. 02-1783-CD

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a certified copy of Plaintiff's PreTrial Statement filed in the above-captioned matter on the Defendants, Richard E. Hendricks and Jeffrey D. Hendricks, through Defendants' attorney by depositing such documents in the United States Mail postage pre-paid and addressed as follows:

Jeffrey S. DuBois, Esquire
190 West Park Avenue, Suite 5
DuBois, PA 15801

By:


R. Denning Gearhart
Attorney for Plaintiff

Date: January 13, 2005

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,
Plaintiff

vs.

RICHARD E. HENDRICKS and
JEFFREY D. HENDRICKS,
Defendants

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: NO. 02-1783-CD
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O R D E R

NOW, this 21st day of January, 2005, following Pre-Trial Conference among the Court and counsel it is the ORDER of this Court as follows:

1. Non-Jury Trial is hereby scheduled to commence at 9:00 a.m. on April 26th and 27th, 2005 in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania;
2. By no later than April 10th, 2005 counsel for both parties shall submit brief to the Court on the issue of whether there has been a Nonjoinder of an Indispensable Party and as to how that issue allegedly affects the above-captioned legal proceeding.

FILEDst
08:29 02 210 atty. Henschel
24 atty. Dubois
JAN 26 2005

BY THE COURT
Fredric J. Ammerman
FREDRIC J. AMMERMAN
President Judge

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,
Plaintiff,

v.

RICHARD E. HENDRICKS and
JEFFREY D. HENDRICKS,
Defendants.

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No. 02-1783-CD

CASE NUMBER: 02-1783-CD

TYPE OF PLEADING: **CERTIFICATE OF SERVICE**

FILED ON BEHALF OF: Plaintiff

COUNSEL FOR RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE
Supreme Court ID#: 26540
207 East Market Street
Clearfield, PA 16830
814-765-1581

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APR 13 2005

0/10:50/12
William A. Shaw

Prothonotary/Clerk of Courts

no c/c

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON
Plaintiff,

v.

RICHARD E. HENDRICKS and
JEFFREY D. HENDRICKS,
Defendants.

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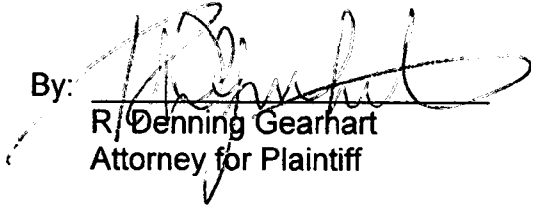
No. 02-1783-CD

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a true and correct copy of Plaintiff's Brief on Expected Trial Issue filed in the above-captioned matter on the Defendants, Richard E. Hendricks and Jeffrey D. Hendricks, through Defendants' attorney by depositing such documents in the United States Mail postage pre-paid and addressed as follows:

Jeffrey S. DuBois, Esquire
190 West Park Avenue, Suite 5
DuBois, PA 15801

By:


R. Denning Gearhart
Attorney for Plaintiff

Date: April 13, 2005

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ROSEMARIE KOZDRON,
Plaintiff

vs.

RICHARD E. HENDRICKS, al
Defendants

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NO. 2002-¹⁷⁸³~~783~~-C.D.

O R D E R

NOW, this 4th day of February, 2004, upon this Court's consideration of Plaintiff's written request for continuance and confirmation of agreement to said continuance from counsel for the Defendant, it is the ORDER of this Court that said request be and is hereby granted. Hearing on Defendant's Emergency Petition for Special Relief shall be re-scheduled for the 19 day of February, 2004, in Courtroom No. 1 of the Clearfield County Courthouse at 2:00 o'clock P.m.

By the Court,



FREDRIC J. AMMERMAN
PRESIDENT JUDGE

FILED

FEB 05 2004

William A. Shaw
Clerk

FILED

010,25 AM 2CC, Atty General
FEB 05 2004
2CC Atty, Dubois

William A. Shaw
Prothonotary

W.A. Shaw

R. Denning Gearhart

Attorney & Counselor At Law

215 East Locust Street
Clearfield, PA 16830814-765-1581
fax-814-765-6745www.dgearhartpalaw.com
dgearhart@dgearhartpalaw.com

February 4, 2004

The Honorable Frederic J. Ammerman
Presiding Judge
Clearfield County Courthouse
Clearfield, Pennsylvania 16830
Faxed: 765-7649Re: Kozdron v. Hendricks, No.: 02-1783-CD

Dear Judge Ammerman:

As has been discussed, I did not get notice of the hearing scheduled for February 4 at 3:00 p.m. until I came in the office first thing Tuesday morning (Faxed "Feb 02 2004 17:57"). Accordingly, I was unable to prepare with my client, who is snowbound at her home. Accordingly, it was necessary to ask that the matter be continued. Attorney DuBois has consented to this request.

Sincerely,

R. Denning Gearhart

RDG/

PS - Per rescheduling, please note I'm out on vacation 3/4 - 3/22.

cc: Jeffrey S. DuBois
190 West Park Avenue, Suite 5
DuBois, Pennsylvania 16801
Fax: 814-375-8710

cc: Rosemary Kozdron

V:\04FILES\Kozdron, Rosemarie - dispute-easement\correspondence\2004, 0204 to Judge A re continuing hrg on special relief.wpd

**JEFFREY S. DuBOIS***Attorney at Law*

Phone: 814-375-5598

Fax: 814-375-8710

190 West Park Avenue • Suite #5 • DuBois, PA 15801

E-Mail: jsdlaw@verizon.com

February 4, 2004

Honorable Fredric J. Ammerman
President Judge
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

Via: Fax

RE: Kozdron vs. Hendricks

Dear Judge Ammerman,

Pursuant to my conversation with your office yesterday, as well as this morning, I have no objections to a continuance in the above captioned matter that was scheduled to be heard by you today at 3:00 o'clock p.m.

If you have any questions, please feel free to contact me.

Sincerely,

Jeffrey S. DuBois

JSD:tlm

Cc: R. Denning Gearhart, Esquire

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

ROSEMARIE KOZDRON

-VS-

RICHARD E. HENDRICKS and
JEFFREY D. HENDRICKS

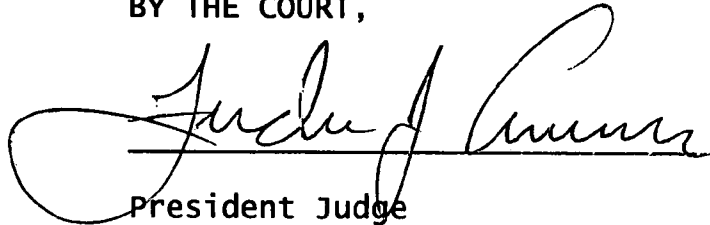
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No. 02-1783-CD

O R D E R

NOW, this 26th day of April, 2005, the Court
hereby grants the request for nonsuit made by counsel for
the Defendants, and the ejectment action filed by the
Plaintiff is hereby dismissed.

BY THE COURT,


President Judge

FILED

APR 29 2005

William A. Shaw
Prothonotary/Clerk of Courts

610
2cc
Atty's: Gearhart
Dubois